

**JOINT STUDY COMMITTEE ON AUTISM SPECTRUM  
DISORDER, LAW ENFORCEMENT, PUBLIC SAFETY, AND FIRST  
RESPONDERS**



**REPORT TO THE  
2007 GENERAL ASSEMBLY  
OF NORTH CAROLINA**

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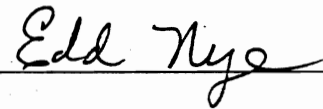
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December 31, 2006

TO THE MEMBERS OF THE SENATE AND THE MEMBERS OF THE  
HOUSE OF REPRESENTATIVES OF THE 2007 GENERAL ASSEMBLY  
OF NORTH CAROLINA:

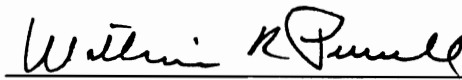
The Joint Study Committee on Autism Spectrum Disorder, Law  
Enforcement, Public Safety, and First Responders herewith submits to you for  
your consideration its report.

Respectfully submitted,



Representative Edd Nye

Co-chair



Senator William Purcell

Co-chair

## PREFACE

The Joint Study Committee on Autism Spectrum Disorder, Law Enforcement, Public Safety, and First Responders, established by the President Pro Tempore of the Senate and the Speaker of the House of Representatives on November 21, 2005, is authorized to study the availability of autism-specific training and education to law enforcement personnel, community colleges, public safety personnel, first responder units, judges, district attorneys, magistrates, and related organizations.

The Committee is cochaired by Representative Edd Nye and Senator William Purcell. The committee clerk maintains a notebook containing the committee minutes and all information presented to the committee. The committee filed an interim report to the 2006 Session of the 2005 General Assembly on April 26, 2006.

## COMMITTEE MEMBERSHIP

### President Pro Tempore Appointments

Senator William Purcell – Co-Chair  
Senator John Snow  
Senator Tom Apodaca  
Senator Jim Forrester  
Mr. Steve Bizzell  
Ms. Mary Jo Croom  
Ms. Tracy McPherson  
Mr. Joe Kiesenhofer  
Mr. David Munday  
Dr. Michael Teague

### Speaker of the House of Representatives Appointments

Representative Edd Nye – Co-Chair  
Representative Bob England, M.D.  
Representative Karen Ray  
Representative Joe Tolson  
Mr. Eddie Caldwell  
Mr. Bill Farley  
Ms. Marsha Jones  
Dr. Gary Mesibov  
Ms. Kimberly S. Taylor  
Ms. Betsy Thompson

## COMMITTEE PROCEEDINGS

September 20, 2006

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The Joint Study Committee on Autism Spectrum Disorder (ASD), Law Enforcement, Public Safety, and First Responders met on Wednesday, September 20 at 1:00 PM in Room 643 of the Legislative Office Building. The following members were present: Chairpersons Purcell and Nye; Legislative Members: Senators Apodaca and Forrester; and Representatives England and Ray; and Public Members: Mr. Eddie Caldwell, Chief Bill Farley, Mr. Joe Kisenhofer, Major David Munday, Judge Kimberly Taylor, Dr. Michael Teague, and Ms. Betsy Thompson. Also present were Sergeant-at-Arms Stan Johnson, Curtis Dowd, Wade Anders, Jon Fitchett, Terry Isaacs, Fred Hines, Toussaint Avent, Carolyn Bowden, and Earl Coker. The Research Staff person present was Susan Sitze. Chairman Edd Nye presided. The Agenda and Visitor Registration Sheet are attached and incorporated into these minutes as (**Attachments 1 and 2**).

Chairman Nye called the meeting to order at 1:00 PM and then recognized Chairman Purcell who welcomed the members of the committee.

Chairman Nye recognized Susan Sitze, of the Research Staff, who presented a review of the Committee Report to the 2006 General Assembly. (**Attachment 3**) She stated the bulk of the report was comprised of the minutes. After some discussion, it was determined that two provisions of the bill recommended by the Committee were enacted in House Bill 1723: The Studies Act of 2006. Ms. Sitze referred the committee to those two provisions on the last page of attachment 3. They are in Section 1 and Section 3 of the Draft Bill contained in the Report. Ms. Sitze was asked to provide a copy of the Study Bill for the committee.

Chairman Nye then recognized Chief Scott Cunningham of the Cary Police Department to make a presentation on the use of taser guns in schools and any effects this may have on individuals with autism. (**Attachment 4**)

The question and answer period following the presentation is summarized below:

- Chairman Nye recognized Dr. Michael Teague who asked Chief Cunningham if there was any evidence that the use of tasers caused epileptic seizures. Chief Cunningham said no and informed the Committee that most policies prohibit the use of the tasers in the area of the head or neck.
- Major David Munday was recognized by Chairman Nye. He asked Chief Cunningham where the tasers fall in terms of the use of force matrix within his department, if tasers are considered lethal and what training is given for after the taser is used on an individual. Chief Cunningham replied that tasers are used when

- Chairman Nye recognized Judge Kimberly Taylor who asked the Chief about giving the SRO's more information on individuals with ASD. The Chief responded that any information would be beneficial and that law enforcement agencies want information. The delivery method would be the issue.
- Dr. Michael Teague was recognized and he asked if a taser could cause heart arrhythmia. The Chief responded that the taser does not have the capacity to stop or start a person's heart according to the research he has.

Chairman Nye thanked Chief Cunningham for an excellent report and then asked Sergeant Kevin Tingen, an SRO with the Cary Police Department, to come forward and demonstrate to the Committee his X26 Taser, which has 50,000 volts of electricity.. Sergeant Tingen did so but first clarified a point that there are nine SRO officers serving 11,000 middle and high school students in the Cary school system. During the demonstration the Committee learned that every time a taser is fired, there is a tape that records how many times the taser is fired, the duration of deployment, and the recorded information is reviewed up the chain.

Chairman Nye recognized Representative England who asked Sergeant Tingen what his comfort level was in dealing with individuals with autism. Sergeant Tingen noted that in his 17 years, he had never experienced aggression with autistic individuals.

Representative England followed up with a question to the Sergeant asking him if his training has been adequate to help him recognize an autistic individual. The Sergeant said he wouldn't be able to distinguish someone with autism from someone with mental illness. He explained that they are in the process of getting all officers, including SROs, certified as crisis intervention officers and that will enhance our ability to respond.

Chairman Nye thanked Sergeant Tingen and then recognized Ms. Lynn Smith, Consultant, in the Exceptional Children Division of the North Carolina Department of Public Instruction.

Ms. Smith began by stating that she had been asked by Ms. Sitze to address the question of how schools are impacted by HIPPA rules. She then presented an overview of HIPPA, the Health Insurance Portability and Accountability Act, and FERPA, the Family Education Rights and Privacy Act. (**Attachment 5**) Ms. Smith said that HIPPA, which was created to simplify the administration of health insurance, has yet to release guidance that will definitively answer a lot of the questions that occur. She then explained that FERPA is the law that most of our schools follow. However, she stated, HIPPA gives some very specific guidelines and restrictions as to when records are considered to be medical records, at which point, the school must follow the HIPPA guidelines. The key indicator is as to whether records are medical is if the school is billing Medicaid or an outside source for related services such as occupational therapy or physical therapy for a child in their system. Ms. Smith then referred to a letter she

**Attachment 3.** After the review, she stated that the committee had covered the issues in their mandate. A general discussion followed among the members about related issues for future meetings. Judge Taylor suggested more training for First Responders, EMS and Firefighters. Ms. Sitze noted that firefighters have no mandated training for certification. Chairman Nye asked about ISO requirements for firefighters and asked Ms. Sitze to check with the Department of Insurance about certification and ratings for firefighters.

Dr. Michael Teague was recognized by Chairman Nye and stated his concern that there is not a law that requires one teacher who sees another teacher abusing a child to make a report. Chairman Nye recognized Mr. Wilson who stated that under the juvenile code, abuse is perpetrated by a parent or a caretaker which does not include educators. Under 115C288-subsection G of the code, the principal may be required to report abuse to the police. Chairman Nye noted that by law, all citizens are required to report child abuse to DSS.

Ms. Sitze was recognized and further clarified that teachers would be charged with a crime rather than abuse and there is nothing in the state law that requires a person to report a crime.

Chairman Nye asked Ms. Sitze to provide a document for the committee of the Studies Bill Provisions to DPI, DMV and TEACHH and then ask those Departments for an update.

Senator Purcell was recognized and asked the committee what they would like addressed at the next meeting. Dr. Teague requested the issue of reporting abuse in the schools and the need for a law to be enacted. Senator Purcell stated that the Committee needs to stay with the mandate and to be sure that any issue discussed is appropriate to our charge.

Noting that the Committee's next meeting would be determined at a later date, Chairman Nye adjourned the meeting at 2:55 P.M.

November 15, 2006

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The Joint Study Committee on Autism Spectrum Disorder (ASD), Law Enforcement, Public Safety, and First Responders met on Wednesday, November 15, 2006 at 1:00 pm in Room 643 of the Legislative Office Building. The following members were present: Chairpersons Purcell and Nye; Legislative Members: Senator Forrester and Representatives England, Ray and Tolson; and Public Members: Ms. Mary Jo Croom, Ms. Susan DeCatsye, Chief Bill Farley, Ms. Marsha Jones, Dr. Gary Mesibov, Judge Kimberly Taylor, Dr. Michael Teague, and Ms. Betsy Thompson. Also present were Sergeant-at-Arms Earl Coker, Martha Gadison, Toussant Avent, Chester White, Stan



- Representative Ray asked if SROs were usually under contract in North Carolina. Ms. Greer responded that there are less than a dozen SROs under contract in our state.
- Senator Purcell asked Ms. Greer if she was satisfied with the present training. She responded yes, with the exception of tier 2.
- Representative Ray asked if parents could give special permission for information to be provided about their child. Ms. Greer said yes.
- Representative Ray followed with a question asking if parents of special needs children are advised and understand the certain situations when information about their child cannot be provided without their permission. Ms. Greer said she did not think so though there is a provision in place allowing for the release of information but it is not required.
- Senator Purcell asked if the inability to release information was part of the HIPPA law to which Ms. Greer responded that, being a privacy issue, it was under all three laws – HIPPA , FERPA and IDEA.
- Betsy Thompson said that while the Autism Society does educate parents on the value of being proactive about the release of information to SROs, she would like to see it routinely offered by DPI so everyone is reached. Mrs. Greer said DPI is looking at that in tier 2.
- Representative Nye suggested that a form allowing for the release of information be a standard part of signing up for school.

As there were no further questions or comments, Senator Purcell thanked Mrs. Greer and asked her to report back to the Committee on the progress of her next meeting with TEACCH.

Senator Purcell than introduced the second presenter, Mr. Wayne Hurder, the Director of Driver and Vehicle Services with the North Carolina Department of Transportation. Mr. Hurder gave the committee a status report on the 2006 Study Bill as to DMV's progress in implementing a voluntary, disability designation on drivers' licenses or an ID card and on vehicle registration records. (See attachment 5.) Mr. Hurder stated they cannot go forward with the designation on a driver's license until they receive, from the federal government, draft regulations in March of 2007 and then final regulations from the Department of Homeland Security. As to the vehicle registration designation, it is doable with an \$80,000 to \$90,000 cost.

Senator Purcell thanked Mr. Hurder and opened the floor for questions and comments.

- Senator Forrester suggested to Mr. Hurder that, in addition to autism, a designation for medical personnel would be important. Mr. Hurder said a template could be established.
- Dr. Teague asked Mr. Hurder if the Committee could go ahead with designations, and if so, should they go through a Congressman. Mr. Hurder said that under state law, you can proceed but the federal regulations may cause it to stop.

TASERINTERNATIONAL that has study information.

- Dr. Teague pointed out that the use of a taser was preferable to a weapon.
- Senator Purcell recognized Susanne Harris, President of the Autism Society of Durham, who expressed her concern about using tasers on autistic individuals who often are medically fragile. She noted that Amnesty International has reported 250 deaths by tasers in the United States through June 10, 2006
- Chief Farley cautioned about asking the state to ban tasers. He stated that the use of tasers has resulted in fewer deaths than the use of weapons and that communication is the answer.
- Senator Purcell read Eddie Caldwell's email (attachment 6) and then recognized Allison Davis, a parent of three boys with autism. Ms. Davis referenced the minutes from the previous committee meeting. She noted that the officer who demonstrated the taser said he explains what is happening the entire time he uses the taser on a person. She noted that will not work with an autistic individual and the officer's statement showed a lack of understanding. She said autism is a communication disorder and communication is the answer.
- Senator Purcell recognized Chief Farley who clarified for Dr. Mesibov that there is not one taser that is more harmful than another, as far as he knows.
- Betsy Thompson recommended a study for the use of tasers on people with autism and suggested providing the SRO with additional information. She noted an elective online course Pam Pope at the Justice Academy is developing.
- Dr. Mesibov noted the best chance of not using force is to know who the person is yet he hopes that the fear of tasers will not make parents more reluctant to identify their child and make the officer out to be the enemy.
- Representative Tolson was recognized and suggested one of the Committee's recommendations should be the necessary training for officers and asked if there was adequate staff to implement the training.
- Senator Purcell recognized Ms. DeCatsye who stated they are in need of new staff to which Ms. Sitze noted that would require funds.
- Senator Purcell recognized Mr. John Thomas, an Educational Consultant working with Claire Greer. He referred to tier three and noted it was important to focus on de-escalation so that the taser is not necessary.
- Representative Nye suggested that Ms. Sitze contact the state of Florida to see where they were in their taser study and report back to the Committee.

After more discussion, the following four recommendations were proposed:

#1 Ask the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services to investigate the use of tasers on persons with special needs.

#2 Recommend that the North Carolina Division of Emergency Services include in their disaster plan, provisions for individuals with special needs.

Sydney Templeton died, and my mom and I were at the meeting about it in Cary a couple of years ago, before this Committee was started. Thank you to everybody on this Committee, and to all the people who are working to learn more about autism because of it.

This bowl was made at Creative Living by one of our participants. I was asked by people on this Committee to give you this bowl to thank you, Mrs. Jones, for what you have done. Thank you Representative Nye. Please thank Senator Purcell also”.

At the conclusion of his remarks, Co-Chairman Nye called on Susan Sitze, Staff Attorney, to present the Committee’s *Draft Report to the 2007 General Assembly* (Attachment 3). She began by referring to item I. The issue of the use of tasers has been addressed by committee in previous meetings, and Ms. Sitze stated she learned after the last meeting that the Raleigh Police Department has been working on a very extensive report based on a study of the use of tasers, having a neurologist as consultant; however, at time of our meeting the report has not been printed. Ms. Sitze spoke with Dawn Bryant, Raleigh Police attorney, who told her that after extensive review they have decided to use tasers since they were unable to find any medical sensitivities on a person with special needs. This report will be widely distributed to the public.

She then noted that the Final Report would also include minutes of today’s meeting. The report follows the format of committee’s *Interim Report to the 2006 General Assembly*. The last page “Committee Recommendations and Legislative Proposals” was discussed by Committee. The four recommendations were approved by Committee with the exception of Item III. The discussion regarding that item centered on adding some kind of vehicle and/or home decal to the recommendation. Judge Taylor moved Item III be amended to include the word “decal”. It was reiterated that use of an ID or decal would be voluntary. Rep. England moved the report be adopted. There was consensus on this motion. There will be emailed to each member the Report, as corrected, for agreement before the final copy is presented to the 2007 General Assembly.

Ms. Sitze then referred to a request by a Committee member at the last meeting that the Committee receive a final version of the in-service training the Justice Academy will be doing. She understands Pam Pope with the Justice Academy has sent to some members this final version along with a CD that has the clips specifically related to autism. Those who may not have received these items and who wish to do so will be receiving same.

Co-Chair Nye then recognized Ms. Jo Anne Jeffries, past director of the Autism Society of North Carolina and who now serves on the Governor’s Advocacy Council for Persons with Disabilities for remarks. A copy of those remarks is a part of these minutes. See Attachment 4.

## COMMITTEE RECOMMENDATIONS AND LEGISLATIVE PROPOSALS

The Joint Study Committee on Autism Spectrum Disorder, Law Enforcement, Public Safety, and First Responders makes the following recommendations:

- I. The Committee recommends that the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services investigate the use of tasers on persons with special needs. One of the purposes of this study shall be to determine if there are factors that might make the use of a taser on a person with special needs different from using a taser on a person who has no special needs.
- II. The Committee recommends that the General Assembly require the North Carolina Division of Emergency Services to include in their disaster plan, provisions for evacuating and assisting individuals with special needs. This plan should address individual persons in assistance facilities as well as persons with special needs that live within the community.
- III. The Committee recommends that the North Carolina Autism Society make available an ID card for autistic individuals to carry, identifying them as autistic.
- IV. The Committee realizes that additional staff may be needed to implement the new training being provided for law enforcement, and recommends that additional money be appropriated to provide for that staff where necessary.